

REMARKS/ARGUMENTS

By this Amendment Claim 1 has been amended. Claims 1-5 and 7-19 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1, 2, 5 and 7 - 19 stand rejected under 35 U.S.C. 103(a) as being obvious over 3,002,308 (Decamp) in view of 3,793,126 (McAdams). Claims 1 - 5 and 7 - 19 stand rejected under 35 U.S.C. 103(a) as being obvious over 3,002,308 (Decamp) in view of 206,387 (Bowen).

It is respectfully submitted that none of the art, alone or in combination, discloses nor suggests the subject matter being claimed herein. In this regard, rejected Claim 1, as previously amended, requires that the connection means be "resiliently flexible". In order to support the rejection of the claims calling for "resiliently flexible connector means" the examiner has taken the position that "Webster's dictionary defines 'resilient' as capable of withstanding shock without permanent deformation or rupture." Flexible is "defined as capable of being flexed and yielding to influence." While such definitions are certainly accurate in the abstract, the use of the term "resiliently flexible" in Claim 1 has to be read in the context of the invention as described in the specification. In that context it is clear that a resiliently flexible connection means is capable of recovering its original configuration subsequent to a force being applied thereto. This may be thought of, in effect, as an elastic deformation. Moreover, the stalk member has a connection part comprising a screw thread which engages said resiliently flexible connection means, and said resiliently flexible connection means connects the head member to the stalk member.

The prior art fails to disclose this significant feature. In order to more clearly set forth this feature, Claim 1 has been amended to call for resiliently flexible connection means which renders

the head member moveable with respect to the stalk member such that the stalk member is biased to return to its original position after moving. This feature is not shown nor suggested by the prior art of record.

In this regard the primary reference relied upon in the rejection, i.e., U.S. Patent No. 3,002,308 (Decamp), discloses an artificial plant having a stem 2 which is rigid (see lines 9 to 11 of column 2) and which is connected to a flower 21 by a screw 24 (see figure 4). Clearly, this is a rigid interconnection. In contrast to the examiner's assertion bridging pages 3 and 4 of the Office Action, the secondary stalks 12 of '308 are not adjustable. Rather, Figure 2 of '308 shows that a plurality of different stalks 12 may be provided (see lines 22 to 27 of column 2).

The secondary reference, i.e., U.S. Patent No. 3,793,126 (McAdams), fails to make up for the deficiencies of the Decamp patent as a viable reference since McAdams teaches that the stems are plastically deformable. Thus once moved, the stems must be moved again to adopt their original configuration. Accordingly, McAdams does not disclose "resiliently flexible" connection means to interconnect a threaded part of a stalk to a head member as is required in Claim 1, so that a combination of McAdams and Decamp would not lead to the invention as defined in previously presented Claim 1, let alone as now set forth in amended Claim 1. In particular, even *assuming arguendo* (which is denied), that the person skilled in the art to which this invention pertains would be motivated to modify the teachings of Decamp in the light of McAdams that person would replace the screw 24 of Decamp with the wire and segment 48 of McAdams. As stated at line 42 to 44 of column 5 of McAdams, the segment 48 is not resiliently flexible, it is

plastically deformable. Moreover, if one were to replace the screw 24 of Decamp there would be no requirement or desire to retain the threaded portion.

The emphasis on the elastic deformability of the connection means as now set forth in amended Claim 1 is in further contrast to McAdams, where the tendency of the wires to return to their original position (the spring constant) is taught as something to be overcome, not an advantage to be used.

If the flexible stems of McAdams were incorporated into Decamp this would not result in biasing of the components to return to their original position as this would contradict the teachings of McAdams. Amended Claim 1 is therefore not taught in either document alone or when combined.

Moreover, there is no teaching of any incentive for modifying the teaching of Decamp in view of McAdams. In fact, any suggestion of obviousness could only result if the PTO reads the subject matter of the present invention into the cited references, where no such disclosure exists. In particular, the only way to make such a rejection of those claims would be to impermissibly use the Applicant's own teaching to hunt through the prior art for the claimed elements and combine them as claimed. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438, 1442 (Fed.Cir.1991). It is an accepted principle of patent law that the PTO may not "use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ 1780, 1784 (Fed. Cir. 1992).

With regard to the rejection of Claim 1 on the basis of Decamp in view of U.S. Patent No. 206,387 (Bowen) it is noted again that Decamp does not disclose adjustable (i.e. flexible)

branches. Rather Figure 2 of Decamp shows different possible configurations of secondary stems 12.

Bowen discloses a spirally-curved wire fx2. There is no mention that the wires are sprung or that the curved wires are resiliently flexible. The pins to which the spirally curved wires are attached are not threaded as is required in Claim 1. In fact they are any shape other than round (see paragraph 8 of page 2). Moreover, and as clearly shown in Figure 1, all of the curved part of the wire is in contact with the pin, such that a straight wire extends therefrom to contact the leaf. There is no disclosure in Bowen that this part of the wire is resiliently flexible. Indeed, it is a requirement of Claim 1 of Bowen that the leaves and so on are sustained in position.

Thus, again *assuming arguendo* (which is denied) that a person skilled in the art to which the subject invention pertains were to look to Bowen to alter the teaching of Decamp, that person would not retain the internally threaded bore of Decamp for the connection of the curved wire of Bowen. In fact the skilled person would use the connection means of Bowen, including the non-circular pin. Moreover, Bowen discloses (page 2, lines 30-35) that the connecting members are shaped "to prevent the ... attached portions from turning after being placed in position." In contrast, amended Claim 1 is concerned with permitting the interconnected portion to have a free range of movement while ensuring it is biased to return to its original position after moving.

It is respectfully submitted that a combination of Decamp and Bowen does not lead to the invention as defined in Claim 1 previously presented, let alone as set forth in amended Claim 1.

Claims 2 - 5 and 7 -16 depend either directly or indirectly upon Claim 1 and are hence patentable for reasons similar thereto.

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Claim 17 is an independent method claim which is directed to a method of forming an artificial ornament similar to that claimed in Claim 1. Hence, for similar reasons as given with respect to Claim 1, it is respectfully submitted that Claim 17 is patentable.

Claim 18 is an independent claim directed to a kit of parts for an artificial ornament similar to that claimed in Claim 1. Hence, for the similar reasons as given with respect to Claim 1, it is respectfully submitted that Claim 18 is patentable over the art of record.

Claim 19 is an independent claim directed to an artificial ornament similar to that claimed in Claim 1. Hence, for similar reasons as given with respect to Claim 1, it is respectfully submitted that Claim 19 is patentable over the art of record.

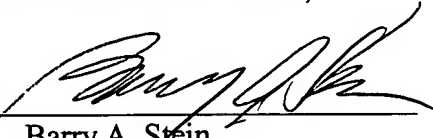
For at least the reasons set forth above, it is respectfully submitted that Claims 1 - 5 and 7 - 19, all of the claims now appearing in this application are allowable and that the application is in condition for allowance and such action is respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

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